



NEWS

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

News media Information 202 / 418-0500
TTY 202 / 418-2555
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

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NEWS MEDIA CONTACT:
Meribeth McCarrick at (202) 418-0654

FCC ANNOUNCES WIRELESS SPECTRUM CAP TO SUNSET EFFECTIVE JANUARY 1, 2003

Washington, D.C. – The Federal Communications Commission (FCC) has completed its reexamination of the Commercial Mobile Radio Services (CMRS) spectrum cap and cellular cross-interest rules as part of its year 2000 biennial review. The FCC announced that it will: (1) sunset the CMRS spectrum cap rule by eliminating it effective January 1, 2003; (2) raise the cap immediately to 55 MHz in all markets until the sunset date; and (3) immediately eliminate the cellular cross-interest rule in Metropolitan Statistical Areas (MSAs), but retain the rule in Rural Service Areas (RSAs).

The spectrum cap rule restricts the amount of broadband CMRS spectrum an entity can hold in a particular geographic area. The rule applies to licensed broadband Personal Communications Service (PCS), cellular, or Specialized Mobile Radio (SMR) spectrum. Prior to today's actions, no entity could have an attributable interest in more than 45 MHz (or 55 MHz in rural areas) of licensed broadband PCS, cellular, or SMR spectrum with significant overlap in any geographic area. The cross-interest rule limits the ability of an entity to have ownership or other attributable interests in cellular licensees on different channel blocks in an overlapping geographic area.

Specifics of Today's Actions:

The FCC will sunset the spectrum cap rule effective January 1, 2003. The transition period between now and the sunset date will afford an opportunity for the markets to prepare for the FCC's shift from an inflexible spectrum cap rule to reliance on case-by-case review of CMRS spectrum aggregation. The transition period will also permit the FCC to consider what guidelines, procedures and resources may be necessary for the FCC to perform case-by-case review of transactions involving transfers of control of CMRS spectrum in an effective and timely manner. The FCC raised the spectrum cap to 55 MHz in all markets during the transition period. This change is intended to address certain carriers' concerns about near-term spectrum capacity constraints in the most constrained urban areas.

The FCC eliminated the cellular cross-interest rule in MSAs in recognition that the cellular carriers in these areas no longer enjoy significant first-mover advantages. The FCC retained the cellular cross-interest rule in RSAs because cellular incumbents generally continue to dominate the market in those areas. However, the FCC noted it will entertain – and be inclined to grant - waivers of the rule for those RSAs that exhibit market conditions under which cellular cross-interests may also be permissible without significant likelihood of substantial competitive harm. The cellular cross-interest rule in RSAs will be reassessed as part of the FCC's 2002 biennial review.

Action by the Commission November 8, 2001, by Report and Order (FCC 01-328). Chairman Powell, Commissioners Abernathy and Martin with Commissioner Copps dissenting and issuing a separate statement.

FCC Contacts: Lauren Kravetz at (202) 418-7944 or lkravetz@fcc.gov and John Branscome at (202) 418-8205 or jbransco@fcc.gov, WT Docket No. 01-14

